

1 had you done as Cabinet Secretary to address
2 overcrowding in West Virginia's prisons and jails?

3 A. As stated earlier, we do not have a
4 Holiday Inn no vacancy sign.

5 Q. Nothing you could have done between
6 January 2017 and March of '20, correct?

7 A. Right. That is correct.

8 Q. Are you proud of the \$277 million in
9 deferred maintenance for West Virginia's prisons
10 jails and juvenile facilities?

11 A. Am I proud of that? What I -- I can't
12 answer that question, sir. What I can tell you is
13 that January of '17 I appeared between both the
14 House Finance and the Senate Finance and provided
15 them with what the deferred maintenance was and I
16 did that every year.

17 Q. So it's the Legislature's fault, right?

18 A. I cannot -- they are the ones that provide
19 the budget to get work done -- to get the work
20 done.

21 Q. How much was the deferred maintenance in
22 January of 2017?

23 A. Approximately 200 million.

24 Q. And that figure of \$200 million just

1 didn't develop overnight, did it?

2 A. It had been there for many years, sir.

3 Q. How many years prior to 2017 had the
4 deferred maintenance been in at least tens of
5 millions?

6 A. I do not know, sir.

7 Q. Did you do any investigation of that when
8 you became Cabinet Secretary like, Why am I
9 inheriting an agency that has a \$200 million
10 deferred maintenance bill?

11 A. I did, and I was advised that during the
12 Manchin and the Tomblin's administrations that
13 there was no funding available.

14 Q. You mean all of those coal severance taxes
15 and all of those tax cuts and all of that during
16 the Manchin and Tomblin administrations they
17 couldn't spend money on jail maintenance; is that
18 your testimony?

19 A. No, sir, I would not word it like that
20 because --

21 Q. I'm sure you wouldn't.

22 A. -- I was not there.

23 Q. I guess we can go back just like that we
24 know that there is a \$1.8 billion budget surplus

1 according to the Governor right now, we can look at
2 back at budget surpluses under the Manchin and
3 Tomblin administrations, that's easily done, isn't
4 it?

5 A. I would believe so, sir.

6 Q. Have there been budget surpluses in the
7 Justice Administration prior to 2023?

8 A. Yes, sir.

9 Q. And why hasn't the deferred maintenance
10 bill been caught up on during the budget surpluses
11 of the Justice Administration in which you served?

12 A. Sir, every prior -- prior to every
13 legislative session, we have meetings with the
14 budget office. We provide them with our needs.
15 Our needs were clearly articulated along with all
16 other Homeland Security agencies. They're advised
17 of that. We -- transparent. We told them.

18 Q. So your testimony under oath here today is
19 that from 2017 forward your agency had advised the
20 Legislature that it needed 200 million plus to
21 catch up on maintenance in the State of
22 West Virginia. Is that your testimony, sir?

23 A. Well, I don't want -- everything except
24 for the 200 million plus --

1 Q. I'm using your figure. You said you came
2 in in '17 with it at 200 million?

3 A. Approximately 200 million.

4 Q. Has it been below 200 million since
5 January of 2017?

6 A. I don't have those figures memorized but
7 around 200 million.

8 Q. Regardless of what the figure is whether
9 it's 200, 277, 198, is your testimony under oath
10 here today that every year from January of '17 to
11 present you've presented the budget office with the
12 deferred maintenance bill for West Virginia's jails,
13 prisons and juvenile facilities?

14 A. Correct.

15 Q. And in the Governor's submitted budget for
16 those same years, he would have submitted his first
17 budget to the Legislature in about November or
18 December of '17 for the '18 session, correct?

19 A. Yes, sir.

20 Q. For every budget submitted by Governor
21 Justice has it included money for deferred
22 maintenance?

23 A. There has been moneys provided. At one
24 point we got I believe \$15 million which we did, we

1 Q. Are you proud that there is vacancies as
2 high as 70 percent in some of West Virginia's
3 jails?

4 A. Counsel, you use the word am I proud, I --
5 the -- what my response is, is obviously in January
6 of '20 we were down to 560 some vacancies.
7 According to people who have been around for 30
8 years have the best that it had been for decades.
9 So we were on a path and then COVID hit. I would
10 love to have every vacancy filled.

11 Q. In this 560 vacancies as of January '20,
12 that's the lowest that it ever got during your
13 tenure as Cabinet Secretary for DHS or DMAPS,
14 correct?

15 A. Correct.

16 Q. So that was the best worse that it ever
17 was in January of '20, 560 vacancies?

18 A. According to two individuals with 30 years
19 of experience they stated that that was the least
20 number of vacancies Corrections had had in decades.

21 Q. And a lot of that was the result of what
22 Douglas and others have called the historic
23 legislation, the pay legislation passed around 2018
24 or so, the 2-2-2, correct?

1 allocated for the closure of the Anthony Center,
2 correct?

3 A. Uh-huh. Yes, sir.

4 Q. Was there ever any analysis by DHS or DCR
5 as to whether or not the 2 million per year was
6 adequate?

7 A. All the time, sir. Obviously it's clear
8 that it was not enough.

9 Q. And is that clear by virtue of the fact
10 that the number went from approximately 200 million
11 in 2017 to 277 in 2022?

12 A. I don't know what you mean, sir.

13 Q. In your testimony before the Legislature
14 although not giving a specific number when you were
15 asked about 200 million by the Chairman, you said
16 it's more than that today, and that was in December
17 of '21.

18 A. Uh-huh.

19 Q. What I'm saying is when you testified
20 before the committee, it's more than 200 million
21 today. The fact that that number grew instead of
22 contracted doesn't that indicate to us that the \$2
23 million dollars a year or 2.5 whatever it is is
24 insufficient?

1 BY MR. NEW:

2 Q. -- to spend the 200 million in deferred
3 maintenance plus or the amounts necessary to
4 adequately staff our prisons and jails?

5 A. The Senate placed approximately 380
6 million dollars in a fund and it has given the
7 Governor the discretion to spend that how he deems
8 fit. And we have submitted a few weeks ago a
9 deferred maintenance list and the talk is right now
10 we're going to get a hundred million of that 300
11 and some million for deferred maintenance.

12 Q. And is that the portion of Brad Douglas'
13 testimony where he testified that money was being
14 allocated for higher ed --

15 A. Yes.

16 Q. -- secondary schools --

17 A. Same pot of money.

18 Q. -- or the State BOE, however Brad Douglas
19 said.

20 A. Uh-huh.

21 Q. And Corrections?

22 A. But as of last week we were getting a
23 hundred million of that sum of money.

24 Q. Is that just for deferred maintenance or

1 does that also include staffing issues?

2 A. Deferred maintenance.

3 Q. Is there out of that 380 million money
4 designated to address staffing shortages?

5 A. Out of that money, no.

6 Q. Out of any other pots of money?

7 A. There is talk of a special session in
8 August to -- we have sent six different revisions
9 to them on salary work ranging, the total is
10 ranging from 20 to 27 million for prisons and
11 jails -- that's incorrect, sir. Sorry. I
12 misspoke. For prisons and juveniles, and it will
13 take approximately 10 to 13 million dollars for
14 jails.

15 Again, let the record show that has not
16 been approved by the Speaker and the President.

17 Q. Would that -- that proposal would
18 obviously have to be voted on by the Legislature,
19 the ballpark 30 to 40 million for staffing,
20 correct?

21 A. No, sir. Keep the jails a special
22 revenue. Just prisons, juveniles.

23 Q. With respect -- and I want to make sure
24 that I understand your testimony. For the 100

1 million dollars for deferred maintenance, that
2 money has already been allocated by the Legislature
3 for the Governor to use at his discretion for
4 higher ed, the State Board of Education and
5 Corrections. Do I understand that correctly?

6 A. Correct. And we submitted the paperwork
7 probably early last week as to where -- how we
8 would spend the hundred million.

9 Q. At the risk of sounding ungrateful, if the
10 100 million is spent on deferred maintenance
11 there'd still need to be another 100 or so million
12 spent, correct?

13 A. Yes, sir, and they understand that.

14 Q. What about the staffing, I had -- Douglas
15 had used figures of approximately 40 to -- I'm
16 sorry, 50 to 60 million. I believe Mr. Plumley
17 testified that it could be as high as 100 million
18 for staffing.

19 A. Well, at that time it was 27 and 13. That
20 is 40 million.

21 Q. Yes.

22 A. That's as high as I know it was. Uh-huh.

23 Q. As high as the need or as high as the
24 willingness --